

Antideficiency Act



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DoN Service Day

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Director

Budget Policy and Procedures
Division
OASN(FM&C)

Antideficiency Act Requirements

- ♦ Administrative control of appropriations
- ♦ Preliminary review
- ♦ Formal investigations
- ♦ Investigative report
- ♦ Leading causes of violations
- ♦ Prevention
- ♦ Case Examples

What are

ADA

Violations?

Antideficiency Act

A violation of the Antideficiency Act is a serious matter as it represents a violation of Federal statute.

Results in an administrative investigation report.

Between FY 1987 and FY 1998, 69 ADA violations investigated & reported to OSD

***From FY 1999 to present, 34 ADA investigations initiated
Preliminary Reviews Pending***

Represents 50+ percent increase in potential violations identified in a four year period as opposed to the previous 11 years

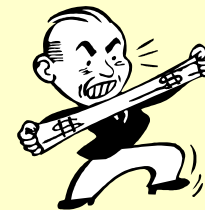
WHY?

Antideficiency Act

- DoN and DoD reorganizations, Base Realignment and Closure (BRAC) actions, and personnel downsizing had seriously weakened a number of DoN Comptroller organizations.
- Result is that Comptrollers had lost autonomy and/or capability to provide sound financial advice to leadership and maintain adequate fiduciary control of appropriated funds.
- Impact reflected in increased Antideficiency Act violations and Congressional criticism of financial management practices.

Leading Causes of DoN ADA Violations

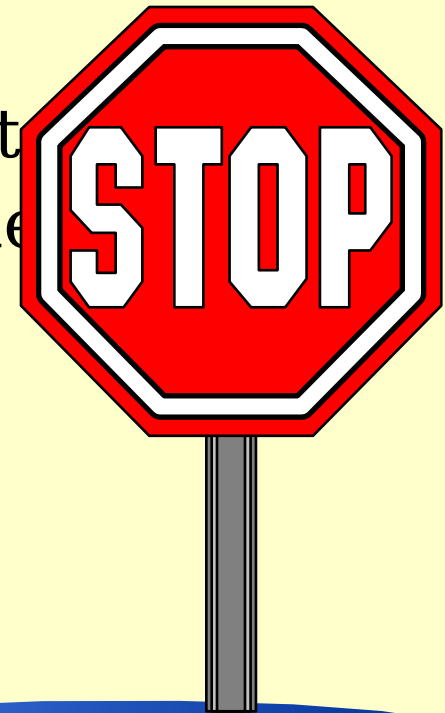
- ◆ Expense/investment criteria
- ◆ Military construction/family housing
- ◆ Availability as to purpose
- ◆ Exceeding authorized amount
- ◆ Obligations in advance of an appropriation
- ◆ Bona fide needs
- ◆ Person not doing their job



ADA Prohibitions

Making or authorizing an expenditure or obligation of money ---

- In excess of the amount available in an appropriation or fund. 31 USC 1341(a)(1)(A)
- Involve the Government in a contract or obligation for the payment of money before an appropriation is made, unless authorized by law.
31 USC 1341 (a)(1)(B)



Example

Violation Type

31 USC 1341(a)(1)(A)

- ◆ Case 88-9 \$1,466,190.24

Ship Stores Profits, Navy

Did not transfer sufficient funds to SSP,N
account

31 USC 1341(a)(1)(B)

- ◆ Case 97-4 \$2,955,000 FISC Norfolk
Detachment Washington, DC

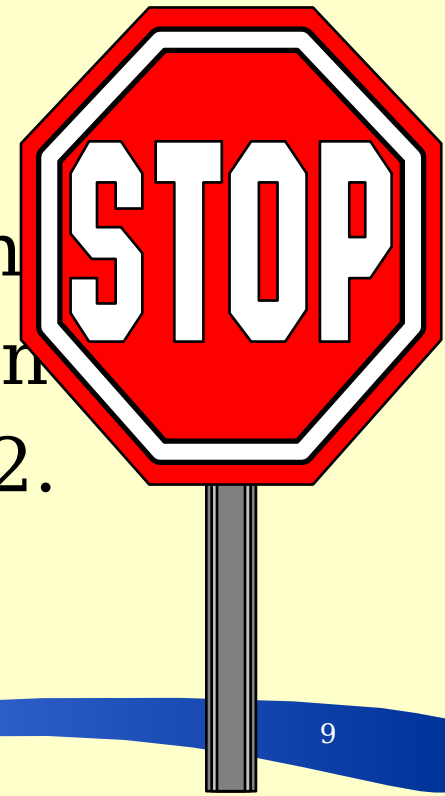
Contracting services in Advance of an
Appropriation

ADA Prohibitions

- In excess of an apportionment or allocation.

31 USC 1517

- Accept voluntary services, except in emergencies involving human life and protection of property. 31 USC 1342.



Example

Violation Type

31 USC 1517

- ◆ Case 96-2 \$34,591,099 BRAC II and III
Awarded CPFF contract above \$25,000
contrary to recurring General Provision in
Military Construction Appropriation Acts.
- ◆ NAVAIR
- ◆ NAVSEA
- ◆ SPAWAR
- ◆ PACFLT

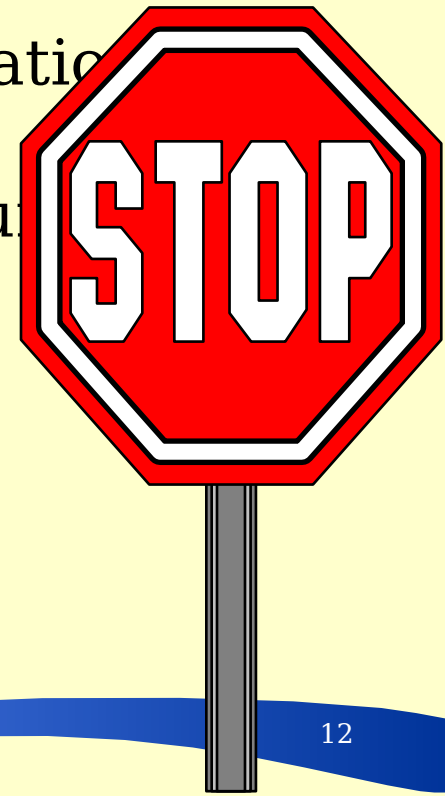
31 USC 1342 - No cases

ADA Administrative Controls

- 31 USC 1514(a): The head of each executive agency shall prescribe by regulation a system of administrative control designed to --
 - Restrict obligations or expenditures from each appropriation to the amount of apportionments...
 - Enable the official to fix responsibility for an obligation or expenditure exceeding an apportionment or reapportionment



- Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law. 31 USC 1301(a)
- An appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability. 31 USC 1502(a)



Example

Violation Type

31 USC 1301(a)

- ◆ Case 87-2 \$45,775.95 Expense/Investment Error
Enlisted Personnel Management Center, New Orleans
(Caused a 1517 violation as activity had no OPN)

31 USC 1502(a)

- ◆ Case 97-4 \$2,955,000 FISC Norfolk Detachment
Washington, DC
Contracted FY 1997 and FY 1998 education services
financed with FY 1996 funds in error
(Caused a 1341 violation as in advance of
appropriation)

Administrative Discipline: -- up to removal.

- ▣ 31 USC 1349 & 31 USC 1518

Criminal Penalties:

- ▣ 31 USC 1350 and 31 USC 1519
- ▣ Knowing and willful
- ▣ 2 years/ \$5,000 or both - NCIS

Reports to OMB, Congress & the President

Statistics

Within the 69 cases between FY 1987 - FY 1998

223 individuals were found responsible

- ◆ ***Military 107 - including COs and Flag Positions***
- ◆ ***Civilian 116 - including comptrollers and PMs***

129 violations identified - only ten findings of no violation

Violations ranged from \$93.35 to \$68,582,708.00

- ◆ ***Case 90-4 Naval Station Philadelphia Security Dept Purchased blank ammunition with OMN***
- ◆ ***Case 93-2 Naval Forces Central Command Desert Storm/Desert Shield - exceeded allocated funds***

What do you do If???????

SOMETHING DOESN'T SEEM RIGHT

**TELL THE COMPTROLLER OR THE
COMMANDING OFFICER**

**THEY ARE RESPONSIBLE FOR ALL
FUNDS
RECEIVED**

**THERE IS NO ONE WHO WANTS TO
DO IT WRONG!**

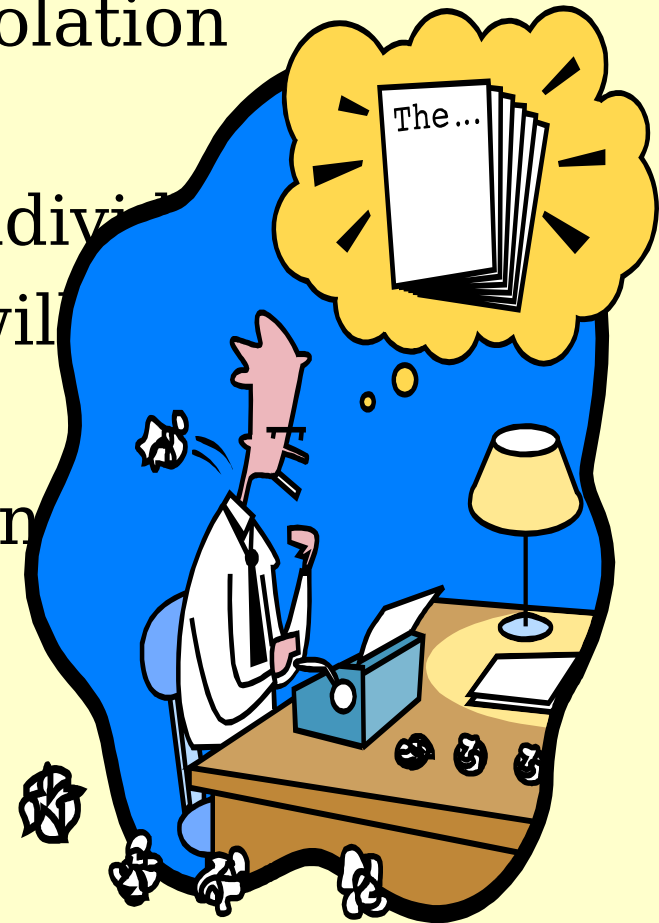
- ♦ PURPOSE
 - ♦ Gather basic facts and determine whether a violation has ***apparently*** occurred
- ♦ DOCUMENT FINDINGS
 - ♦ Review includes gathering documentation on questionable transaction(s), applicable unobligated funds status at the time of the questionable transaction, any applicable statutory constraints, policies, etc.
 - ♦ Determine whether a potential violation has occurred or a report of “no violation”
- ♦ Preliminary Reviews completed by Command personnel

- ◆ FMR VOLUME - 14 (DOD 7000.14-R)
 - ▣ Outside investigator
 - ▣ Assign responsibility
 - ▣ Discipline

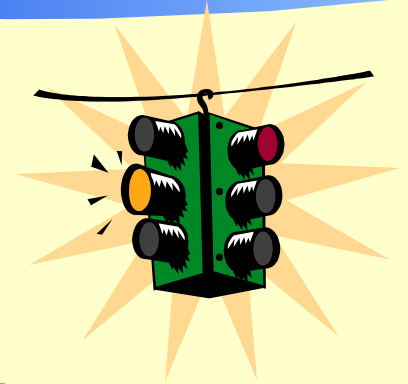


Key Report Elements

- ◆ Dates of discovery and occurrence of violation(s)
- ◆ Circumstances leading up to violation
- ◆ Responsibility
- ◆ Statements from responsible individual(s)
- ◆ Assessment of “knowing and willful”
- ◆ Disciplinary action
- ◆ Elimination of status of violation
- ◆ Corrective action



- ◆ Address local weaknesses
- ◆ Implement internal controls
- ◆ Ensure personnel are trained in financial management principles and fiscal law
- ◆ Ensure compliance with requirements of the Antideficiency Act
- ◆ When in doubt, consult with FMB-5 or your Command Counsel



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- ♦ FMB www.navweb.secnav.navy.mil

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